

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

Plaintiff,

V.

TYRONE ROANE,

Defendant.

Criminal Action No. 07-48-GMS

JURY INSTRUCTIONS (PART II)

Dated: March 14, 2008

TABLE OF CONTENTS

	PAGE
POSSESSION OF A FIREARM BY A FELON	-1-
“FIREARM” DEFINED.	-2-
STIPULATION OF FACT	-3-
FIREARM OFFENSES –IN OR AFFECTING INTERSTATE OR FOREIGN COMMERCE DEFINED	-4-
EVIDENCE OF PRIOR CONVICTION OF A DEFENDANT CHARGED WITH POSSESSION OF A FIREARM BY A CONVICTED FELON	-5-
DELIBERATIONS AND VERDICT	-6-
UNANIMOUS VERDICT	-7-
DUTY TO DELIBERATE	-8-
VERDICT FORM	-9-

Possession of a Firearm By a Felon

Now that you have completed your initial deliberations, you must consider Count III of the indictment. In order to find the defendant guilty of this offense, you must find that the government proved each of the following three elements beyond a reasonable doubt:

First: That Tyrone Roane was previously convicted of a felony, that is, a crime punishable by imprisonment for a term exceeding one year;

Second: That after this conviction, Tyrone Roane knowingly possessed a Ruger, Model MKII, .22 caliber pistol, serial number 214-92208. With respect to this element of the charge, you should use previous testimony as your guide; and

Third: That Tyrone Roane's possession was in or affecting interstate or foreign commerce.

“Firearm” - Defined

The term "firearm" means any weapon which will expel, or is designed to or may readily be converted to expel, a projectile by the action of an explosive. The term includes the frame or receiver of any such weapon.

Stipulation of Fact

The Government and the defendant have agreed that Tyrone Roane has been previously convicted of a crime punishable by imprisonment for a term exceeding one year, a felony. You should therefore treat this fact as having been proved. You are not required to do so, however, since you are the sole judge of the facts.

Firearm Offenses – In or Affecting Interstate or Foreign Commerce Defined

The third element that the government must prove beyond a reasonable doubt is that the firearm specified in the indictment, a Ruger, Model MKII, .22 caliber pistol, serial number 214-92208 was in or affecting interstate (foreign) commerce.

This means that the government must prove that at some time before the defendant's possession, the firearm had traveled in interstate commerce.

It is sufficient for the government to satisfy this element by proving that at any time prior to the date charged in the indictment, the firearm crossed a state line or the United States border. The government does not need to prove that Tyrone Roane himself carried it across a state line or the United States, or to prove who carried it across or how it was transported. It is also not necessary for the government to prove that Tyrone Roane knew that the firearm had traveled in interstate commerce.

In this regard, there has been evidence that the firearm in question was manufactured in a different state or country than the state where Tyrone Roane is charged with possessing it. You are permitted to infer from this fact that the firearm traveled in interstate commerce; however, you are not required to do so.

Evidence of Prior Conviction of Defendant Charged with Possession of a Firearm by a Convicted Felon (18 U.S.C. § 922(g))

You heard evidence, through a stipulation, that the defendant was convicted before this incident in New Castle Superior Court in and for the State of Delaware of a crime punishable by imprisonment for a term exceeding one year. This prior conviction was brought to your attention only because it tends to establish one of the elements of the crime of possession of a firearm by a convicted felon as set forth in the indictment. You are not to speculate as to the nature of the conviction. You may not consider the prior conviction in deciding whether Tyrone Roane was in knowing possession of the firearm that he is charged in this case with possessing.

The fact that the defendant was found guilty of another crime on another occasion does not mean that he committed this crime on March 29, 2007, and you must not use his guilt of the other crime as proof of the crime charged in this case except for the one element of this crime which I have mentioned. You may find the defendant guilty of this crime only if the government has proved beyond a reasonable doubt all of the elements of this crime.

DELIBERATIONS AND VERDICT

Introduction

That concludes the part of my instructions explaining the rules for considering some of the testimony and evidence. Now let me finish up by explaining some things about your deliberations in the jury room, and your possible verdicts.

Once you start deliberating, do not talk to the jury officer, or to me, or to anyone else except each other about the case. If you have any questions or messages, you must write them down on a piece of paper, sign them, then give them to the jury officer. The officer will give them to me, and I will respond as soon as I can. I may have to talk to the lawyers about what you have asked, so it may take some time to get back to you. Any questions or messages normally should be sent to me through your foreperson.

Unanimous Verdict

Your Verdict, whether it is guilty or not guilty, must be unanimous.

To find a defendant guilty, every one of you must agree that the Government has overcome the presumption of innocence with evidence that proves his guilt beyond a reasonable doubt as to that Count.

To find him not guilty, every one of you must agree that the Government has failed to convince you beyond a reasonable doubt as to that Count.

Either way, guilty or not guilty, your verdict must be unanimous.

After you have reached a unanimous agreement as to the guilt or innocence of the defendant with respect to each of the Counts in the Indictment, you then return to the courtroom.

Duty to Deliberate

Now that all of the evidence is in and the arguments are completed, you are free to talk about the case in the jury room. In fact, it is your duty to talk with each other about the evidence, and to make every reasonable effort you can to reach a unanimous agreement. Talk with each other, listen carefully, and respectfully to each other's views, and keep an open mind as you listen to what your fellow jurors have to say. Try your best to work out differences. Do not hesitate to change your mind if you are convinced that other jurors are right and your original position was wrong.

But do not ever change your mind just because other jurors see things differently, or just to get the case over with. In the end, your vote must exactly that – your own vote. It is important for you to reach a unanimous agreement, but only if you can do so honestly and in good conscience.

No one will be allowed to hear your discussions in the jury room, and no record will be made of what you say. So you should all feel free to speak your minds.

Listen carefully to what the other jurors have to say, and then decide for yourself if the Government has proved the defendant guilty beyond a reasonable doubt with respect to each Count.

Verdict Form

A verdict form has been prepared that you should use to record your verdict.

Take this form with you to the jury room. When you have reached your unanimous verdicts, the foreperson should write the verdicts on the form, date and sign it, return it to the courtroom and give the form to my courtroom deputy to give to me. If you decide that the government has proved Tyrone Roane guilty of any or all of the offenses charged beyond a reasonable doubt, say so by having your foreperson mark the appropriate place on the form. If you decide that the government has not proved Tyrone Roane guilty of some or all of the offenses charged beyond a reasonable doubt, say so by having your foreperson mark the appropriate place on the form.